IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1443 of 1997

in

SPECIAL CIVIL APPLICATIONNo 4465 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SARASWATI HINDI SHIKSHA MANDAL
Versus
PRADEEPKUMAR GAYAPRASAD CHATURVEDI

Appearance:
1. LETTERS PATENT APPEAL No. 1443 of 1997
MR SHIRISH JOSHI for Appellant No.
MR HJ NANAVATI for Respondent No. 1
GOVERNMENT PLEADER for Respondent No. 2
RULE SERVED for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and

HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 09/12/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

This appeal is arising out of the order dated 13th October, 1997 passed by N.N. Mathur, J. in Special Civil Application No.4465 of 1997 whereby his Lordship vacated the ad-interim relief operating in favour of the appellant-petitioner since 25th June, 1997.

2 In this matter, initially, notice was ordered to be issued to the other side by the Division Bench of this Court. Thereafter it was admitted on 18th November, 1999 by another Division Bench of this Court. Since then it is pending for final disposal.

Civil Application No.10920 of 1997 filed in this appeal for interim relief was allowed by the Division Bench of this Court on 18th November, 1999 by confirming the ad-interim relief granted earlier by another Division Bench of this Court on February 2, 1999. It appears that the Government had not placed the decision taken by the Commissioner of Higher Education, who is now designated as Commissioner of Schools and Midday Meals, in the matter of fixing the responsibility of the person concerned for delay in inquiry. The question was at whose instance the delay occurred : whether it was at the instance of the teacher or the appellant - institution. Unfortunately, till today no such decision seems to have been taken so far by the Commissioner of Schools and Midday Meals in the matter.

3 In view of the above, we are of the considered opinion that no useful purpose would be served by keeping this appeal pending any more. Accordingly, this appeal is disposed of with a direction to the Commissioner of Schools and Midday Meals to take a decision in the matter of fixing the responsibility of the person concerned after extending an opportunity of hearing to both the parties latest by 31st March, 2005, provided he has not taken the decision in the matter so far, as per the direction issued by the learned Tribunal.

(B.J. Shethna, J.)

(Sharad D Dave, J.)

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